

September 26, 2000

Contract No. 00-C-0328

for

***Independent Technical Review of the Carnivore
System***

***Issued by: U.S. Department of Justice
Justice Management Division
Procurement Services Staff
National Place North, Suite 1000
1331 Pennsylvania Ave., N.W.
Washington, DC 20530***

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Washington, DC 20530***

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This contract also incorporates the following IIT Research Institute (IITRI) document by reference:

Sections 1 through 4 of the IITRI final technical proposal dated September 20, 2000.

PART I - THE SCHEDULE
SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 Pricing

The Contractor shall provide, in accordance with the requirements specified herein, all resources necessary to complete an Independent Technical Review of the Carnivore Electronic Communication Collection System. The review and all deliverables shall be provided on a time-and-materials basis.

B.1.1 Labor

(a) Table 1 contains the unit pricing structure for the labor portion of the technical review. The Contract Line Item Number (CLIN) structure follows the statement of work (Section C) requirements. All hourly rates are considered fixed unit prices that shall include all expenses and profit, including, but not limited to: salaries/wages, report/documentation preparation, Section C.5.1 requirements, fringe benefits, equipment usage, computer resources, facilities, overhead, and general and administrative expenses.

Table 1 - Fixed Unit Prices for Labor and Estimated Cost to Perform

CLIN	Labor Category	Unit	Est. Qty	Unit Price	Total
Technical Review of the Carnivore System (Section C.4.2)					\$164,667.74
1001	Project Manager	Hour	220	\$160.94	\$35,406.80
1002	IITRI Subject Matter Expert	Hour	150	\$160.94	\$24,141.00
1003	Systems/Network Analyst	Hour	150	\$123.85	\$18,577.50
1004	C++ Application Analyst	Hour	270	\$106.71	\$28,811.70
1005	Database Analyst	Hour	130	\$128.25	\$16,672.50
1006	Security Analyst	Hour	50	\$198.14	\$9,907.00
1007	Technical Writer	Hour	50	\$111.28	\$5,564.00
1008	Administrative Support	Hour	94	\$51.81	\$4,870.14
1009	Project Controller	Hour	6	\$94.85	\$569.10
1010	IIT Subject Matter Experts	Hour	100	\$201.48	\$20,148.00
Additional Analyses (Optional Requirement, Section C.4.3)					\$0.00
2001	Project Manager	Hour	TBD	\$160.94	\$0.00
2002	Systems/Network Analyst	Hour	TBD	\$123.85	\$0.00
2003	C++ Application Analyst	Hour	TBD	\$106.71	\$0.00
2004	Database Analyst	Hour	TBD	\$128.25	\$0.00
2005	Security Analyst	Hour	TBD	\$198.14	\$0.00
2006	Technical Writer	Hour	TBD	\$111.28	\$0.00
2007	Administrative Support	Hour	TBD	\$51.81	\$0.00
2008	Project Controller	Hour	TBD	\$94.85	\$0.00
2009	IIT Subject Matter Experts	Hour	TBD	\$201.48	\$0.00
Total Estimated Cost of Labor					\$164,667.74

B.1.2 Other Direct Costs

(a) Table 2 delineates the groups or categories of costs which are considered allowable other direct costs (ODC) for this contract. The Department will use this table to authorize and track actual ODC expenditures during performance. Note that the requirements of Section C.5.1 are not separately billable and will not be considered allowable ODCs under this contract—costs for such items must be built into the Table 1 unit prices.

Table 2 - Fixed Unit Prices for Other Direct Costs and Estimated Cost to Perform

CLIN	Item Description	Unit	Est. Amount	Unit Price (multiplier)	Total
Technical Review of the Carnivore System (Section C.4.2)					\$7,891.00
3001	Travel	Actual Cost	\$7,891.00	1.000	\$7,891.00
3002	Purchased Materials & Supplies	Actual Cost	\$0.00	1.000	\$0.00
Additional Analyses (Optional Requirement, Section C.4.3)					\$0.00
4001	Travel	Actual Cost	TBD	1.000	\$0.00
4002	Purchased Materials & Supplies	Actual Cost	TBD	1.000	\$0.00
Total Estimated Cost of Other Direct Costs					\$7,891.00

(b) The fixed multiplier for each CLIN shall include all administrative handling costs associated with the CLIN. The multiplier is to be applied against the actual cost of the item for which reimbursement has been authorized. The elements of cost under each Table 2 CLIN are only allowable to the extent that they are not included in the Table 1 fixed unit prices and have been authorized by the COTR. The billable amount shall be limited to the actual cost of the item plus the amount resulting from the application of the appropriate multiplier identified in the table (e.g., actual cost of item is \$100.00, and multiplier for the CLIN is 1.02, the total billable amount is \$102.00).

(c) For subcontracted items/services, the multiplier shall only be applied one time. For example, a subcontractor might be required to travel. It is not permissible for the subcontractor to apply a markup to the travel costs in billing the prime contractor, and then for the prime contractor to apply another markup when billing the Government. The multiplier may only be applied once, and must be applied to the original cost of the item.

B.1.2.1 Travel

(a) As a general rule, local travel will not be reimbursed under this contract. Examples of local travel which will not be subject to reimbursement are: travel to and from normal job site; supervisory personnel traveling to a Government site or alternative facility to oversee operations. Personnel temporarily working at a Government site or alternative facility will consider such facility his/her normal job site.

(b) All reimbursable long distance travel shall be approved in advance by the COTR. Reimbursement for actual (approved) travel costs incurred during the performance of this contract shall be in accordance with Part 31 of the Federal Acquisition Regulations. Travel requirements under this

contract shall be met using the most economical form of transportation available. If economy class transportation is not available, the Contractor must submit (to the COTR) a request for advance approval to utilize higher class travel. All travel should be scheduled sufficiently in advance to be able to take advantage of offered discount rates. Individual 'travel authorization letters' may be provided to the Contractor (for all Contractor personnel who are required to travel) which may allow Contractor personnel to receive Government rates when on long distance travel. The current Federal Travel Regulations and per diem rates can be accessed at <http://policyworks.gov/org/main/mt/homepage/mtt/mtthp.htm>

(c) The Department encourages advance airfare purchases to take advantage of supersaver discounts. If the trip is canceled or travel dates are changed due to the Government's actions, the Government will, absent special circumstances, pay airline cancellation charges or airline charges for changes in the travel dates.

B.1.3 Ceiling Price

The ceiling price under this contract is the sum of the Table 1 and Table 2 totals. The Government shall not be obligated to pay the Contractor any amount in excess of this total (ceiling) price, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price, unless and until the Contracting Officer shall have notified the Contractor in writing that the ceiling price has been increased and shall have specified in the notice a revised ceiling that shall constitute the ceiling price for performance under the contract (see Section I.1, clause 52.232-7 for notification responsibilities).

SECTION C -- DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 Introduction and Background

(a) Recent congressional inquiries and reports in the news media reflect considerable public concern over use by the Federal Bureau of Investigation of a relatively new investigative tool known as "Carnivore." Carnivore is a computer-based system that is designed to allow the FBI, in cooperation with an Internet Service Provider (ISP), to comply with court orders requiring the collection of certain information about emails or other electronic communications to or from a specific user targeted in an investigation. Questions that have been raised include concern that the FBI's temporary use of the Carnivore system could interfere with the proper functioning of an ISP's network; concern that the system might, when used properly, provide investigators with more information than is authorized by a given court order; and concern that even if the system functions appropriately when properly used, its capabilities give rise to a risk of misuse, leading to improper invasions of privacy.

(b) In light of these concerns, the Attorney General has directed the Assistant Attorney General for the Justice Management Division to arrange for an independent technical review of the Carnivore system's design, function, and method of use. The results of this review will be documented by the Contractor in a draft and final report.

(c) The system consists of Carnivore software written in C++ and deployed with a Windows NT Workstation operating system. No TCP IP stack is loaded. The platform is a commercial off the shelf (COTS) PC with a pentium III processor, 128 megabytes of RAM, between a 4 to 18 gigabyte hard drive and a 2 gigabyte Jaz drive for the collection of evidence. Additionally, the system includes: COTS communications software; a network interface card; a hardware authentication device; and a hardware network isolation device.

(d) This document sets out the parameters for the independent technical review.

C.2 Definitions

The following definitions apply to this contract:

- (1) As used herein, the term "Carnivore system" includes the Carnivore application software, other hardware and software normally deployed with it, and relevant practices, procedures, and methods of use.
- (2) For purposes of Objectives 1 and 2 in Section C.3, the term "assuming proper usage" includes assuming the existence of proper legal authority; the assistance and cooperation of the relevant ISP or system administrator, including the timely and accurate provision of any necessary system information; and observance, by those using the Carnivore system, of any relevant statutes, policies, procedures, methods, and practices.

C.3 Contract Objective

(a) The Contractor's technical review of the Carnivore system should address the following four

questions:

- (1) Assuming proper usage, will the Carnivore system provide investigators with all the information, and only the information, that it is designed and set to provide in accordance with a given court order?
- (2) Assuming proper usage, will use of the Carnivore system introduce new, material risks of operational or security impairment of an ISP's network?
- (3) Does use of the Carnivore system introduce new, material risks of the unauthorized acquisition, whether intentional or unintentional, of electronic communication information by (i) FBI personnel or (ii) persons other than FBI personnel?
- (4) Are the protections built into the Carnivore system, including both audit functions and operational procedures or practices, commensurate with the level of the risks, if any, identified in response to (3) above?

(b) Additional, relevant questions may be added to the above list.

C.4 Statement of Work

C.4.1 Technical Review of the System

(a) Subject to the security requirements of Section H.3, at contract award the Department will endeavor to provide (or make available) to the Contractor all relevant information or personnel the Contractor considers necessary to perform the technical review. Access to the source code and testing of the system will be limited to government controlled space unless the Contractor demonstrates that it has a facility with equivalent security arrangements.

(b) While the results of this review are expected to inform ongoing legal and policy discussions, the review itself is technical, not legal. If the Contractor believes that answers to specific legal questions are important to its review, the COTR will provide answers to those questions that shall be accepted as assumptions for purposes of the review, and identified as such in the Contractor's report.

(c) For purposes of Contract Objective (1) (see Section C.3), the Contractor shall evaluate the performance of the Carnivore system in each of several model scenarios, which are summarized in Attachment 1. The model scenarios are intended to reflect those that are most likely to be relevant in actual practice, and to give offerors a basis on which to prepare proposals. If other appropriate scenarios are identified either before or during performance of the contract, the Contracting Officer will expand the scope of the technical review to include additional scenarios.

(d) The Department recognizes that the Carnivore system is subject to certain inherent design limitations that preclude its use in certain situations. Those limitations will be identified to the Contractor, but for obvious reasons will not be made public.

(e) As noted in Section C.1, the Carnivore system incorporates some commercial off-the-shelf software and hardware elements (such as the Windows operating system). While the scope of the review includes the overall configuration of the system, the review is not intended to entail exhaustive evaluation of those elements. In that regard, the Contractor's review is confined to what is necessary to

determine if the use of those products creates particular problems or risks within the scope of the Contract Objectives (see Section C.3).

C.4.2 Reports

C.4.2.1 Format

(a) All deliverables shall be provided to the COTR in both printed and digital form. Digital format shall be WordPerfect or Microsoft Word for all items except briefing materials which shall be a Corel Presentations or Microsoft PowerPoint slide show.

(b) The Department intends to make the Contractor's draft and final reports public to the maximum extent that is consistent with otherwise applicable law or contractual obligations and with preserving the effectiveness of Carnivore as a tool for effectuating court-ordered interceptions of electronic communications or related information.

(c) The Department anticipates that comments provided to the Contractor by the COTR on draft deliverables will seek clarification, offer suggested replacement text, question perceived incorrect statements, or offer guidance to the Contractor. The Contractor shall resolve all comments raised by the COTR in a subsequent deliverable.

(d) The only reference to the Contractor's name in any deliverable shall appear on the cover page of that deliverable. Color and graphics will be used in documents at the discretion of the Contractor to enhance readability and understanding of the material.

C.4.2.2 Progress Reports and Briefings

(a) The Contractor shall report to the COTR weekly describing progress and any problems and proposed solutions. The Contractor shall alert the COTR of any problems related to contract performance at the earliest opportunity.

(b) Prior to submitting the draft and final reports, the Contractor shall brief (i.e., there will be two separate briefings) the COTR and other DOJ officials on the anticipated contents of the reports.

C.4.2.3 Draft Technical Report

(a) The Attorney General has asked for a thorough but prompt review of the Carnivore system. This independent technical review is also intended to inform a broader public and legislative discussion of related legal and privacy issues. For these reasons, the draft technical report shall be submitted by November 17, 2000.

(b) As noted above, the Department intends to make the draft report available to the public for comment. The Department's goal is to maximize disclosure to the public giving due consideration to the confidential nature of some of the information that will likely be in the report. The Department will determine which parts of the report or associated information must remain confidential. The report as publicly released will identify any portion of the report that has been withheld from disclosure, and the

Department's reasons for deciding to maintain it in confidence. The Contractor shall participate in the creation of the public version of the report as directed by the COTR.

C.4.2.4 Public Comment Period

After the draft report is made public, the Department expects to receive comments from interested members of the public. As directed by the COTR, the Contractor shall participate in the public comment phase as follows:

- (1) The Project Manager must make himself/herself available to participate in public discussions.
- (2) The Contractor shall consider, in preparing its final report, any comments that go to technical aspects of the review.

Note: Through the process of public discussion of the draft and final technical reports, the Department also anticipates that interested members of the public will express their views on various legal and policy issues related to, but distinct from, the technical issues addressed by the Contractor's report. A group of Department officials chaired by the Assistant Attorney General for the Justice Management Division will consider those legal and policy issues and include a discussion of them in its final report to the Attorney General concerning the Carnivore system.

C.4.2.5 Final Technical Report

The Contractor shall revise the draft report as necessary in light of technical comments received from the Department or the public. The final technical report shall be submitted by December 8, 2000.

C.4.3 Additional Analyses (Option)

At the unilateral option of the Department, the Contractor may be requested to perform follow-on analyses of technical issues identified in the final technical report. Examples of follow-on work include an analysis of vulnerabilities in the Carnivore system and/or the Department's planned mitigation strategy for such vulnerabilities. The Contracting Officer will define the optional requirements in writing and request that the Contractor submit a cost and technical proposal to perform the optional work. The Contractor shall not perform any optional work unless and until it has received written authorization to do so from the Contracting Officer.

C.5 Contract Management and Administration

C.5.1 General

The Contractor shall provide all management, administration, staffing, planning, scheduling, procuring, etc., for all items and services required by the contract. Listed below are all of the management and administration requirements that must be provided within the unit prices contained in

Section B, i.e., **the following items are not separately billable under the contract.**

- (1) All activities associated with recruiting and hiring staff, such as advertising, screening applicants, interviewing, reference checking, etc.
- (2) Maintaining "in-house" skills, teaming and/or subcontract arrangements to ensure that staff with the requisite experience, skills and knowledge are available on short notice.
- (3) All activities associated with management of the Contractor's facilities that may be utilized, including obtaining space, equipment, furniture, supplies, maintenance, security requirements (see Section H.3.2), etc.
- (4) Utilizing electronic means to conduct business transactions under this contract to the maximum extent feasible. This will include, but is not limited to, Government/Contractor electronic mail exchange to support contract administration, Contractor invoicing, and electronic funds transfer for payment of approved invoices. After contract award, the Contractor and the Contracting Officer will agree on the methods and scope of electronic communications that the Contractor shall follow during the contract period.
- (5) Planning, scheduling and procuring airfare, lodging accommodations, and ground transportation for all approved travel by Contractor personnel. Ensuring that invoiced travel costs are itemized in accordance with the Government travel regulations in effect at the time of travel (See Section B.1.2.1).
- (6) Planning for and making all necessary arrangements to ensure that Contractor personnel performing field work have all necessary equipment (e.g., laptop computers) and supplies by the time they arrive at the site.
- (7) Assembling billing data and billing back-up materials, including all time and materials needed for preparing any responses to Government billing rejection letters. Generating, distributing, and tracking invoices, including generating reports and responding to inquiries regarding invoice status, tracking which deliverables and/or units have been invoiced and which have not, etc.
- (8) All activities associated with managing subcontractors/team members, such as identifying and qualifying them, negotiating subcontracts, reviewing invoices, ensuring compliance with the security and other requirements of this Contract, etc.
- (9) Implementing and maintaining quality assurance and quality control systems to ensure that all contract requirements are met throughout the term of the contract.

C.5.2 Contractor Staff

(a) Because much of the detailed information to which the Contractor's staff will have access is sensitive from a law enforcement perspective and/or subject to the proprietary rights of non-governmental third parties, all staff members will be required to sign an agreement (similar to that contained in Section J, Attachment 2) that they will not disclose or use information about the Carnivore system that is disclosed to them in connection with the review, other than as permitted in connection with the conduct of the Contractor's review and the preparation and authorized disclosure of its report.

(b) The individuals listed below are considered key personnel for this contract. At a minimum, the key personnel will include the Project Manager. The Project Manager is a senior manager responsible for coordinating the management of all work performed under this contract. The Project Manager shall act as the central point of contact with the Department and shall have the full authority to act for the Contractor in the performance of the required work. The Project Manager works independently or under the general direction of senior level Contractor business management on all phases of performance, including contract management, project/task order management, coordination of resource needs, coordination with corporate resources and management, and has direct accountability for the technical correctness, timeliness and quality of deliverables.

Steve Smith, Project Manager

(c) All key personnel listed in paragraph (a) above are subject to the following:

- (1) Replacement of any key personnel is subject to the prior written approval of the COTR.
- (2) Requests for replacement shall include a detailed resume containing a description of the qualifications and experience of the individual(s) proposed.
- (3) Contractor proposals to move any key personnel off this contract shall be submitted in writing at least 30 days in advance of proposed move, and are subject to the approval of the COTR, including approval of proposed replacement.
- (4) The Department reserves the right to review the qualifications of all staff selected to work on this contract before assignment, including the individuals proposed (in the Contractor's proposal) and any replacements for these individuals, and to reject individuals who do not have appropriate qualifications in the conduct of reviews such as this.

(d) The Contractor shall immediately remove any Contractor/subcontractor employee found to represent a threat to the safety of government records, government employees, or other Contractor employees.

SECTION D - PACKAGING AND MARKING

D.1 Payment of Postage and Fees

All postage and fees related to submitting information to the Contracting Officer or the COTR shall be paid by the Contractor.

D.2 Preservation, Packing and Marking

(a) All information submitted to the Contracting Officer or the COTR shall include the contract number.

(b) Unless otherwise specified, all material shall be preserved, packaged, and packed in accordance with normal commercial practices to insure acceptance by common carrier and safe arrival at destination.

SECTION E - INSPECTION AND ACCEPTANCE

E.1 Inspection and Acceptance

(a) Inspection of all services performed under this contract will be performed by the COTR (or his/her authorized designee) at the Government's site, or at the Contractor's site, in accordance with FAR clause 52-246-6. Inspection will consist of an examination of the deliverable(s) and/or services for (1) compliance with the statement of work, (2) thoroughness with respect to scope or content, and (3) quality with respect to the standards set forth in Section C.

(b) The Department shall have 30 days from receipt of each invoice to inspect and accept items delivered/work performed under the contract. Rejected work and/or comments on all deliverables will be provided to the Contractor by the COTR specified in Section G.1. The Contractor shall be responsible for replacement or corrections to the work or deliverable as necessary to meet the standards of acceptance identified in the contract. The cost to replace or correct nonconforming work or deliverables shall be born as specified in FAR clause 52.246-6.

(c) The Government will only be responsible for the cost of those corrections ordered above the performance standard specified in the task order.

E.2 Clauses Incorporated by Reference

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <http://www.arnet.gov/far/>

Table 3 - Section E FAR Clauses by Reference

Clause No.	Title	Date
52.246-6	Inspection--Time-and-Materials and Labor-Hour	Jan 1986
52.246-16	Responsibility for Supplies	Apr 1984

SECTION F - DELIVERIES OR PERFORMANCE

F.1 Delivery Schedule

(a) Table 4 shows the delivery times, i.e., the date on which the completed report shall be received by the Department:

Table 4 - Delivery Times

Deliverable	Due Date
Draft Technical Report, C.4.2.3	November 17, 2000
Final Technical Report, C.4.2.5	December 8, 2000
Additional Analyses (Option), C.4.3	See Below

(b) The Contracting Officer may exercise the Section C.4.3 option for additional analyses by giving written notice to the Contractor, provided this notice is given within 30 days from the date the Contractor delivers the Final Technical Report. The delivery schedule for any deliverables identified under this option shall be mutually agreed upon by the Contracting Officer and the Contractor.

F.2 Clauses Incorporated by Reference

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.arnet.gov/far/>

Table 5 - Section F FAR Clauses by Reference

Clause No.	Title	Date
52.242-15	Stop-Work Order	Aug 1989
52.242-17	Government Delay of Work	Apr 1984
52.247-35	F.O.B. Destination, Within Consignee's Premises	Apr 1984

SECTION G - CONTRACT ADMINISTRATION DATA**G.1 Responsibilities for Contract Administration****G.1.1 Contracting Officer**

(a) The Contracting Officer has the overall responsibility for the administration of this contract. He/she alone, without delegation, is authorized to take actions on behalf of the Government to amend, modify or deviate from the contract terms, conditions, requirements, specifications, details and/or delivery schedules. However, the Contracting Officer may delegate certain other responsibilities to his/her authorized technical representative. This contract will be administered by:

James Stefan
U.S. Department of Justice
Procurement Services Staff
Contract Administration Service
National Place North Building, Suite 1000
1331 Pennsylvania Ave., NW
Washington, DC 20530

Telephone: (202) 307-1930
Fax: (202) 307-1931
E-mail: James.A.Stefan@usdoj.gov

(b) Written communications shall make reference to the contract number and shall be mailed to the above address.

G.1.2 Contracting Officer's Technical Representative (COTR)

(a) Upon award, a Contracting Officer's Technical Representative (COTR) will be designated to coordinate the technical aspects of this contract and inspect items/services furnished hereunder; however, he/she shall not be authorized to change any terms and conditions of the resultant contract, including price.

(b) The COTR for this contract is:

Edward DuMont
U.S. Department of Justice
Office of the Deputy Attorney General
Main Justice Building
950 Pennsylvania Avenue, NW, Room 4341
Washington, DC 20530

Telephone: (202) 514-2707
E-Mail: Edward.C.DuMont@usdoj.gov

(c) The COTR, or his/her designee, will be responsible for the technical administration of this contract. The responsibilities of the COTR include, but are not limited to inspecting all deliverables. The COTR is authorized to certify (but not to reject or deny) invoices for payment in accordance with Section G.3. The authority to reject or deny performance and associated invoice payment is expressly reserved for the Contracting Officer.

(d) The Contracting Officer is the only individual who can legally commit or obligate the Government for the expenditure of public funds. The technical administration of this contract shall not be

construed to authorize the revision of the terms and conditions of this contract. Any such revision shall be authorized in writing by the Contracting Officer.

G.2 Contractor Representatives

G.2.1 Contract Administration

(a) The Contractor's representative to be contacted for all contract administration matters:

Jacqueline J. Secor
IIT Research Institute
201 Mill Street
Rome, NY 13440

Telephone: (315) 339-7025
Fax: (3315) 339-7010
E-Mail: jsecor@iitri.org

(b) The Contractor's representative shall be responsible for all contract administration issues and shall act as the central point of contact with the Government for all such issues. The representative shall have full authority to act for the Contractor in all contractual matters. The representative shall be able to fluently read, write, and speak the English language.

G.2.2 Project Manager

(a) The Project Manager is:

Steve Smith
IIT Research Institute
8100 Corporate Drive, Suite 400
Lanham, MD 20785

Telephone: (301) 918-1082
Fax: (301) 731-6329
E-Mail: ssmith@iitri.org

(b) The Project Manager's responsibilities are described in Section C.5.2(b).

G.3 Payment

G.3.1 Invoice Requirements

(a) Payment for actual work and services rendered under this contract will be made on a monthly basis in accordance with the clause entitled "Payments under Time-and-Materials and Labor-Hour Contracts" (see Section I.1, Clause 52.232-7). To constitute a proper invoice, the following information and/or attached documentation shall be included with the invoice (as applicable):

- (1) Name and address of the Contractor.
- (2) Invoice date.
- (3) Contract number.
- (4) Period covered by the invoice.
- (5) CLIN number and description, quantity, unit price and extended total for the period covered. Actual direct labor hours expended by each individual (fractional parts of an hour shall be rounded to the nearest one-fourth ($\frac{1}{4}$) hour or lesser fraction in computing

- the amount payable) multiplied by the appropriate unit price (hourly rate) from the applicable Table 1 CLIN. Itemization of all approved other direct cost (ODC) items by appropriate Table 2 CLIN with supporting documentation (including subcontractor/supplier invoices). Itemization of all actual transportation and per diem expenses being claimed in accordance with Part 31 of the FAR and Section B.1.2.1 with supporting documentation as requested by the COTR.
- (6) Cumulative amounts billed by CLIN to date.
 - (7) Shipping and payment terms.
 - (8) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).
 - (9) Taxpayer Identification Number.

(b) The COTR will certify the invoice for payment and forward the invoice to the Finance Office specified in paragraph (c) below for payment with a conformed copy to the Contracting Officer specified in Section G.1. Negative inspection results will be reported immediately to the Contracting Officer.

(c) The office that will make the payments due under this contract (i.e., the designated payment office) is shown below. Please note that the Contractor must submit all invoices to the COTR.

Department of Justice
FDSS
600 E Street, NW., Room 4045
Washington, DC 20530

(d) All follow-up invoices shall be marked "Duplicate of Original." Contractor questions regarding payment information or check identification should be directed to the DOJ Vendor Assistance Hotline (202) 616-6260.

G.3.2 Interest on Overdue Payments

(a) The FAR clause entitled "Prompt Payment" (see Section I.1, Clause 52.232-25) is applicable to payment under this contract and requires interest on overdue payment and improperly taken discounts. Determinations of interest due will be made in accordance with the provisions of the prompt payment clause as modified by paragraph (b) below.

(b) Subdivision (a)(6)(I) of the Prompt Payment clause is modified to specify the following period for constructive acceptance by the Government: The Government agrees to inspect and determine the acceptability of supplies delivered or services rendered in accordance with Section E of this contract. For the purpose of determining the due date for payment and for no other purpose, acceptance will be deemed to occur on the last day of the above stated inspection period. However, the Contractor is not entitled to payment of contract amounts or interest unless and until actual acceptance occurs. If the products are rejected or services deficient, the provisions of this clause will apply to the date the Government receives corrected/replacement products or the date the contractor corrects the deficiencies in services.

G.3.3 Taxpayer Identification Number

The Contractor must include his or her Social Security Number (for individuals) or Employer Identification Number (for other entities) on each invoice submitted for payment under this contract. This information is required, for example, in order for the Government to comply with the requirement to file Internal Revenue Service Information returns pursuant to the Internal Revenue Code. Invoices received that do not include the required information will be returned to the Contractor without payment. (Note: This information should be entered in the address block on the invoice).

G.3.4 Payment by Electronic Funds Transfer—Other than Central Contractor Registration (FAR 52.232-34 (May 1999))

(a) Method of payment.

- (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.
- (2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either-- (i) Accept payment by check or some other mutually agreeable method of payment; or (ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information.

- (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") concurrent with receipt of the first invoice or sooner. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).
- (2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment.

- (1) The Government is not required to make any payment under this contract until after

receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

- (2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers.

- (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--(i) Making a correct payment; (ii) Paying any prompt payment penalty due; and (iii) Recovering any erroneously directed funds.
- (2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and-- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or (ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT

instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) EFT information. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

- (1) The contract number (or other procurement identification number).
- (2) The Contractor's name and remittance address, as stated in the contract(s).
- (3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
- (5) The Contractor's account number and the type of account (checking, saving, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.
- (7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

G.4 Pricing of Adjustments

When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" Clause, or any other clause of this contract, such costs shall be in accordance with the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation in effect on the date of the contract.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 Organizational Conflict of Interest

(a) The Contractor warrants that, to the best of its knowledge and belief, and except as otherwise set forth in this contract, it does not have any organizational conflict of interest as defined below.

The term "organizational conflict of interest" means a situation where a Contractor has interests, either due to its other activities or its relationships with the Department of Justice or other law enforcement organizations, which place it in a position that may be unsatisfactory or unfavorable from the Government's standpoint in being able to secure an impartial, technically sound, objective review of the Carnivore system from the Contractor.

(b) The Contractor agrees that, if after contract award it discovers an organizational conflict of interest with respect to this contract, the Contractor shall make an immediate and full disclosure in writing to the Contracting Officer that shall include a description of the action that the Contractor has taken or proposes to take to avoid, eliminate or neutralize the conflict. The Department may, however, terminate this contract for the convenience of the Government if termination is in the best interest of the Government.

(c) If the Contractor was aware of organizational conflict of interest before contract award and intentionally did not disclose the conflict to the Contracting Officer, the Department may terminate this contract at no cost to the Government.

H.2 Data Rights

(a) **Government Furnished Data.** The Government shall retain all rights and privileges, including those of patent and copy, to all Government furnished data. The Contractor shall neither retain nor reproduce for private or commercial use any information or other materials furnished or made available under this contract. The Contractor agrees not to assert any rights at common law or in equity or establish any claim to statutory copyright in such data. These rights are not exclusive and are in addition to any other rights and remedies to which the Government is otherwise entitled elsewhere in this contract.

(b) **Contractor Produced Data and Materials.** All property rights, including publication rights, in the information and materials first produced by the Contractor in connection with this contract shall vest in the Government. Information and materials shall include, but are not limited to all reports. Once the Department releases the public versions of the draft and final reports, any restrictions on the contractor's right to release those versions of the reports become void.

H.3 Security Requirements

H.3.1 Contractor/Subcontractor Personnel

Because of the sensitive nature of the information involved in this contract, all

Contractor/subcontractor personnel will be subject to a basic criminal record checks and federal agency index check. All Contractor/subcontractor personnel that may have access to any of the information under this contract must prepare and submit to the COTR a limited biographical information form that will be used by the Security Program Manager (SPM) to perform the checks described above. The Contractor will not be permitted to commence performance under the contract until a sufficient number of its personnel, as determined by the COTR and SPM, have received favorable checks.

H.3.2 Safeguarding Data

(a) In performance of this contract, the Contractor will have access to sensitive Government information. The Contractor agrees to comply with and assume responsibility for compliance by its employees, and any subcontractors or team members, with the following requirements:

- (1) All work shall be performed under the supervision of the Contractor or the Contractor's employees.
- (2) All individuals who receive access to any sensitive Government information concerning the Carnivore system (system) shall be subject to the personnel security requirements specified in Section H.3.1. The Department may remove access privileges for Contractor personnel for unauthorized, negligent, or willful actions. These may include, but are not limited to unauthorized modification or disclosure of the system or related data.
- (3) All individuals who receive access to any sensitive Government information will be required to sign a nondisclosure agreement similar to that in Section J, Attachment 2 prior to having access to that information. Also, the Contractor shall ensure that access to sensitive Government information is provided to a minimum number of Contractor personnel (to include subcontractor personnel or team member personnel) necessary to adequately conduct the review.
- (4) Any system data made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than a member of the team performing work under this contract on behalf of the Contractor shall be prohibited.
- (5) All system data shall be accounted for upon receipt and properly stored before, during, and after processing.
- (6) The Contractor certifies that system data used during the performance of this contract shall be completely purged from all data storage components of its computer facility(ies), and no sensitive information shall be retained by the Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any system data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- (7) Any spoilage or any intermediate hard copy printout which may result while using system data shall be destroyed using a document shredder or other method approved by the COTR.

- (8) No work involving system data furnished under this contract shall be subcontracted without the specific written approval of the Contracting Officer.
- (9) The Contractor shall maintain a list of employees authorized access to system data. Such list will be provided to the COTR upon request.
- (10) Use of remote maintenance or monitoring capabilities (at a Contractor site via communications link) must be explicitly authorized by the COTR.
- (11) The DOJ will have the right to terminate this contract if the Contractor fails to provide the safeguards described above.

(b) The Contractor shall inform its officers and employees of the penalties for improper disclosure (of any system data) imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(l)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor who, by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, wilfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(c) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the Contractor shall afford the Government access to the Contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases. These inspections may take place at any time during the term of this contract and may include a live demonstration of the Contractor's computer systems capabilities. The Contractor will be given advance written notice of the Department's intent to perform an inspection. The Contractor shall immediately correct any specific measures where the Contractor is found to be noncompliant with contract safeguards.

(d) The Contractor shall not publish or disclose in any manner, without the Contracting Officer's written consent, the details of any safeguards used by the Government to protect its systems.

(e) If new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party. Mutual agreement shall then be reached on changes or corrections to existing safeguards or institution of new safeguards, with final determination of appropriateness being made by the Government. The Government's liability is limited to an equitable adjustment of cost for such changes or corrections, and the Government shall not be liable for claims of loss of business, damage to reputation, or damages of any other kind arising from discovery of new or unanticipated threats or hazards, or any public or private disclosure thereof.

H.4 Confidentiality

Duplication or disclosure of the data and other information to which the Contractor will have access as a result of this contract is prohibited. It is understood that throughout performance of this contract, the Contractor will have access to confidential data which is either the sole property of the

Department of Justice or is the sole property of other than the contracting parties. The Contractor and his subcontractor(s) (if any) agree to maintain the confidentiality of all data to which access may be gained throughout contract performance, whether title thereto vests in the Department of Justice or otherwise. The Contractor and his Subcontractor(s) (if any) agree to not disclose said data, any interpretations and/or translations thereof, or data derivative therefrom, to unauthorized parties in contravention of these provisions, without the prior written approval of the Contracting Officer or the party in which title thereto is wholly vested. Subcontractors are subject to the same stipulations and may be held responsible for any violations of confidentiality.

H.5 Indemnification

(a) **Responsibility for Government-owned or -leased Property and Equipment:** During contract performance, the Contractor shall be responsible for all negligent acts or omissions of its employees or agents or the employees or agents of its subcontractor(s). In this regard, the contractor shall, at no cost to the Government and at the Government's option, replace or compensate the Government for any damage to or loss of Government-owned or -leased property caused by such negligent acts or omissions.

(b) **Responsibility for Contractor or Third Party-owned or -leased Property and Equipment:** The contractor shall indemnify the Government against any and all liability claims for loss or damage to any Contractor owned or leased property occurring as a result of negligence or omissions by employees or agents of the contractor or its subcontractor(s) in connection with the performance of work under the terms of this contract.

(c) **Responsibility for Property and Equipment Damaged or Lost through no fault of the Contractor or the Government:** Property damage or loss that occurs through no fault of either the Contractor, their subcontractors or agents or the Government shall be the responsibility of the party holding title to or having leased the property.

(d) **Contractor Actions:** The Contractor shall indemnify and hold the Government, its agents and employees, harmless against any financial loss or liability, including costs and expenses, arising from any negligent or wrongful act, or omission, or malpractice, on the part of the Contractor, or any of its agents or employees, during the Contractor's performance under this contract. The Contractor also agrees that if the Government suffers any financial loss or liability because of any negligent or wrongful act, or omission, or malpractice, by the Contractor, or any of its agents or employees, the Department may offset any such sums against any money in the Department's possession, which would otherwise be due and payable to the Contractor.

H.6 Publicity

Publicity releases in connection with this contract shall not be made by the Contractor unless prior written approval has been received from the Contracting Officer.

Note: This clause applies to press releases about the award of the contract. The Department does not intend to restrict the contractor's open discussion of non-sensitive information.

H.7 Freedom of Information Act (FOIA) Requests

Notwithstanding any other provision in this contract or any statement or restriction in the Contractor's proposal, by entering into this contract, the Contractor acknowledges that the Department will release Section B of this contract, to include all Pricing Tables, in their entirety in response to Freedom of Information Act (FOIA) requests without giving the Contractor advance notice of the release. With respect to a FOIA request for any part of the Contractor's technical proposal that is either set forth or incorporated by reference in this contract, before responding to the FOIA request the Department will afford the Contractor an opportunity to explain why it believes some or all of the relevant parts of the technical proposal may be exempt from release under the FOIA.

H.8 Subcontracts

The addition of a subcontractor(s) which was not included in the original (at contract award) project team to perform work under this contract is subject to the prior written consent of the Contracting Officer.

H.9 Government Contractor Relationships

(a) The Government and the Contractor understand and agree the support services to be delivered under this contract by the Contractor are nonpersonal services and the parties recognize and agree that no employer-employee relationships exist or will exist under the contract between the Government and the Contractor and/or between the Government and the Contractor's employees.

(b) Contractor personnel under this contract shall not: (1) Be placed in a position where they are appointed or employed by a Federal employee, or are under the supervision, direction, or evaluation of a Federal employee; (2) Be placed in a staff or policy making position; or (3) Be placed in a position of supervision, direction, or evaluation over DOJ personnel, or personnel of other contractors, or become a part of a Government organization.

(c) The services to be performed under this contract do not require the contractor or its employees to exercise personal judgment and discretion on behalf of the Government. Rules, regulations, directions, and requirements which are issued by DOJ Management under their responsibility for good order, administration, and security are applicable to all personnel who enter a Government installation. This is not to be construed or interpreted to establish any degree or Government control which is inconsistent with a nonpersonal services contract. The Contractor will not be paid for performance of personal services. Therefore, the Contractor shall immediately advise the Contracting Officer in the event the contractor or its employee are directed by any Government employee to perform personal services.

H.10 Release of Claims

After completing the contract, and prior to final payment, the Contractor shall furnish to the Contracting Officer, a release of claims against the United States arising out of the contract, other than claims specifically excepted from the operation of the release. Copies of the required form may be obtained from the Contracting Officer at the address listed in Section G.1.2.

PART II

SECTION I - CONTRACT CLAUSES

I.1 Clauses Incorporated by Reference (FAR 52.252-2 (FEB 1998))

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.arnet.gov/far/>

Table 6 - Section I FAR Clauses by Reference

Clause No.	Title	Date
52.202-1	Definitions	Oct 1995
52.203-3	Gratuities	Apr 1984
52.203-5	Covenant Against Contingent Fees	Apr 1984
52.203-6	Restrictions on Subcontractor Sales to the Government	Jul 1995
52.203-7	Anti-Kickback Procedures	Jul 1995
52.203-8	Cancellation, Recision, and Recovery of Funds for Illegal or Improper Activity	Jan 1997
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	Jan 1997
52.203-12	Limitations on Payments to Influence Certain Federal Transactions	Jun 1997
52.204-4	Printing/Copying Double-Sided on Recycled Paper	Jun 1996
52.209-6	Protecting the Government's Interest when Subcontracting with Contractor's Debarred, Suspended, or Proposed for Debarment	Jul 1995
52.215-2	Audit and Records--Negotiation	Jun 1999
52.215-8	Order of Precedence--Uniform Contract Format	Oct 1997
52.215-11	Price Reduction for Defective Cost or Pricing Data--Modifications	Oct 1997
52.215-14	Integrity of Unit Prices	Oct 1997
52.215-21	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data--Modifications, Alternate IV (Oct 1997) [insert "Submission of information other than cost or pricing data may be required as requested by the Contracting Officer consistent with FAR 15.403-3." in paragraph (b)]	Oct 1997
52.219-8	Utilization of Small Business Concerns	Oct 1999
52.222-3	Convict Labor	Aug 1996
52.222-4	Contract Work Hours and Safety Standards Act--Overtime Compensation	Jul 1995
52.222-21	Prohibition of Segregated Facilities	Feb 1999
52.222-26	Equal Opportunity	Feb 1999
52.222-35	Affirmative Action for Disabled and Veterans of the Vietnam Era	Apr 1998
52.222-36	Affirmative Action for Workers with Disabilities	Jun 1998
52.222-37	Employment Reports on Disabled Veterans and Veterans of the Vietnam Era	Jan 1999

Table 6 - Section I FAR Clauses by Reference

Clause No.	Title	Date
52.223-5	Pollution Prevention and Right-to-Know Information	Apr 1998
52.223-6	Drug-Free Workplace	Jan 1997
52.223-10	Waste Reduction Program	Oct 1997
52.223-14	Toxic Chemical Release Reporting	Oct 1996
52.224-1	Privacy Act Notification	Apr 1984
52.224-2	Privacy Act	Apr 1984
52.225-13	Restrictions on Certain Foreign Purchases	Feb 2000
52.227-1	Authorization and Consent	Jul 1995
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement	Aug 1996
52.227-3	Patent Indemnity	Apr 1984
52.227-14	Rights in Data--General	Jun 1987
52.229-3	Federal, State and Local Taxes	Jan 1991
52.229-5	Taxes--Contracts Performed in U.S. Possessions or Puerto Rico	Apr 1984
52.232-1	Payments	Apr 1984
52.232-7	Payments under Time-and-Material and Labor-Hour Contracts	Mar 2000
52.232-8	Discounts for Prompt Payment	May 1997
52.232-11	Extras	Apr 1984
52.232-17	Interest	Jun 1996
52.232-23	Assignment of Claims	Jan 1986
52.232-25	Prompt Payment	Jun 1997
52.233-1	Disputes	Dec 1998
52.233-3	Protest After Award	Aug 1996
52.237-2	Protection of Government Buildings, Equipment, and Vegetation	Apr 1984
52.242-13	Bankruptcy	Jul 1995
52.243-3	Changes--Time-and-Materials or Labor-Hours	Aug 1987
52.244-2	Subcontracts	Aug 1998
52.244-6	Subcontracts for Commercial Items and Commercial Components	Oct 1998
52.245-5	Government Property (Cost Reimbursement, Time-and-Material, or Labor Hour contracts), Alternate I (Jul 1985)	Jan 1986
52.246-25	Limitation of Liability--Services	Feb 1997
52.249-6	Termination (Cost Reimbursement), Alternate IV (Sep 1996)	Sep 1996
52.249-14	Excusable Delays	Apr 1984
52.251-1	Government Supply Sources	Apr 1984

PART III - ATTACHMENTS
SECTION J - LIST OF ATTACHMENTS

- 1. Model Scenarios**
- 2. Sensitive Information Nondisclosure Agreement**

Attachment 1
Model Scenarios

Model Scenarios

1. When used under court order to capture source and destination information for a user's online communications, does Carnivore collect and preserve only that information? Does it do so without collecting and preserving the contents of the target user's communications, and without collecting and preserving information about the activity of other system users?

Examples:

- (a) A court order authorizes the collection of source and destination information from email sent to or from a specified user. Specifically, the order authorizes the collection of the non-content header fields on email sent to or from the specified user; it does not permit collection of the "Subject:" header or the body of the email traffic.

When configured to collect the authorized information from inbound and outbound email (e.g., SMTP connections to TCP destination port 25), does Carnivore collect and preserve all of the information authorized by the court order, only that information, and not other users' email source/destination information or contents?

- (b) A court order authorizes the collection of source and destination information for Hypertext Transport Protocol activity (i.e., web browsing) by user@isp.com. Specifically, the order authorizes the collection of the Internet Protocol (IP) addresses to which user@isp.com opens an HTTP connection. The order does not authorize the collection of the complete Uniform Resource Locator (URL) portion of the browsing activity.

In addition, user@isp.com connects to his provider via telephone dialup, and for each login session the provider's RADIUS server dynamically assigns user an IP address.

When configured to work with the RADIUS server to collect the authorized information from inbound and outbound HTTP traffic (i.e., connections to TCP port 80 on other sites), does Carnivore collect and preserve all of the information authorized by the court order, only that information, and not other users' web browsing source/destination information or contents?

- (c) A court order authorizes the collection of source and destination information for File Transfer Protocol (FTP) activity by user@isp.com. Specifically, the order authorizes the collection of the Internet Protocol (IP) addresses to which user@isp.com opens an FTP connection.

In addition, user@isp.com connects to his provider via telephone dialup, and for each login session the provider's RADIUS server dynamically assigns user an IP address.

When configured to work with the RADIUS server to collect the authorized information from inbound and outbound FTP traffic (i.e., connections to TCP ports 20 and 21 on other sites), does Carnivore collect and preserve all of the information authorized by the court order, only that information, and not other users' FTP source/destination information or contents?

2. When used under court order to capture the contents of a user's online communications, does Carnivore collect and preserve only that information? Does it do so without collecting and preserving the contents of (or other information concerning) the communications of other system users?

Examples:

- (a) A court order authorizes the interception of the contents of email sent to or from a specified user. When configured to collect the authorized information from inbound and outbound email (e.g., SMTP connections to TCP destination port 25), does Carnivore collect and preserve all of the authorized information, only that information, and not other users' communications?
- (b) A court order authorizes the interception of the contents of communications to or from user@isp.com, who has a fixed IP address. Specifically, the order authorizes the interception of all network communications to or from the target user's IP address.

When configured to collect the authorized information, does Carnivore collect and preserve all of the authorized information, only that information, and not other users' communications?

Attachment 2

Sensitive Information Nondisclosure Agreement

Sensitive Information Nondisclosure Agreement

An Agreement between _____ and the Federal Bureau of Investigation (FBI) regarding the nondisclosure of sensitive FBI information, to wit: any and all information received from the FBI arising from a review requested by the Attorney General of the United States (the Review) of the FBI's Carnivore device and system, including, but not limited to, any and all information pertaining to the Carnivore software and associated software and hardware devices and systems; any and all information pertaining to investigations, operations, procedures, policies, practices, guidelines, training, training documents, manuals, technical descriptions, source code, object code, executable software, design, documentation, descriptions, tests, test results, test scenarios, deficiencies, and vulnerabilities associated with the Carnivore device and system; and any and all other information associated with the Carnivore device and system.

1. Intending to be legally bound, I hereby accept the obligations contained in this Agreement in consideration of my being granted access to sensitive information from the FBI arising from the Review as required to perform my duties. As used in this Agreement, sensitive information is marked or unmarked information, including, but not limited to, oral communications arising from the Review, the disclosure of which may compromise, jeopardize or subvert law enforcement activities, investigations, or investigative techniques. Sensitive information also includes information arising from the Review, the disclosure of which might compromise, jeopardize or subvert past or other law enforcement activities, investigations, or investigative techniques. I understand and accept that by being granted access to this sensitive information, special confidence and trust shall be placed in me by the FBI.

2. I hereby acknowledge that I have received an indoctrination concerning the nature and protection of sensitive information, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and that I understand these procedures.

3. I have been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of sensitive information arising from the Review may cause irreparable damage to FBI investigations and investigative techniques and that I will never divulge sensitive information to anyone unless (a) I have officially verified that the recipient has been properly authorized by the FBI to receive it; or (b) I have been given prior written notice of authorization from the FBI that such disclosure is permitted. I understand that if I am uncertain as to the sensitive nature or status of information, I am required to confirm from an authorized official that the information may be disclosed prior to disclosure of this information.

4. I have been advised that any breach of this Agreement may result in the termination of my relationship with the FBI and removal from the Review. In addition, I have been advised that any unauthorized disclosure of information by me may constitute a violation or violations of United States criminal laws, including those codified in Title 18, United States Code, or may lead to criminal prosecution for obstruction of lawful government functions. I realize that nothing in this Agreement constitutes a waiver by the United States of the right to prosecute me for any statutory violation.

5. I understand that all sensitive information to which I have access or may obtain access by signing this Agreement is now and will remain the property of, or in the control of, the FBI unless otherwise determined by an authorized official or final ruling in a court of law. I agree that I shall return all sensitive materials which have or may come into my possession, or for which I am responsible because

of such access: (a) upon demand by an authorized representative of the United States Government; or (b) upon the conclusion of my relationship with the FBI, whichever occurs first.

6. Unless and until I am released in writing by an authorized representative of the FBI, I understand that all conditions and obligations imposed upon me by this Agreement apply during the time I am granted access to the sensitive information and at all times thereafter.

7. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect.

8. I understand that the United States Government may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement. I hereby assign to the United States Government all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation of sensitive information not consistent with the terms of this Agreement.

9. I have read this Agreement carefully and my questions, if any, have been answered.

Signature _____ Date _____
Organization (if contractor, provide name and address):

The briefing and execution of this Agreement was witnessed by

_____ (type or print name)

Signature _____ Date _____

Security Debriefing Acknowledgment

I reaffirm that the provisions of the Federal criminal laws applicable to the safeguarding of sensitive information have been made available to me; that I have returned all sensitive information in my custody; that I will not communicate or transmit sensitive information to any unauthorized person or organization; that I will promptly report to the FBI any attempt by an unauthorized person to solicit sensitive information; and that I have received a debriefing regarding the security of sensitive information.

Signature _____ Date _____

Name of Witness (type or print) _____

Signature of Witness _____ Date _____